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EXAMINER

NGUYEN, TOAN D

ART UNIT PAPER NUMBER

2665

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/521,730

Applicant(s)

SRIRAM ET AL.

Examiner

Toan D. Nguyen

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-12,15-18 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-12,15-18 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-6, 9-12, 15-18 and 28-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,169,738. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application's claims 1-6, 9-12, 15-18 and 28-31 merely narrow the scope of the claims 1-11 of U.S. Patent No. 6,169,738 by adding updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call.

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayano et al. (US 5,132,966) in view of Key et al. (US 5,991,272) further in view of Bruno et al. (US 5,894,475).

For claim 1, Hayano et al disclose call control with transmission priority in a packet communications network of an ATM type, comprising the steps of:

receiving an incoming call, the incoming call representing one of a plurality of call types comprising voice calls and non-voice calls that can use a facility (figure 1, references 10-12, col. 4 lines 8-11 and col. 5 lines 10-17);

admitting the incoming call for using the facility as a function of the call type of the incoming call (col. 4 lines 27-34 and col. 5 lines 23-38).

However, Hayano et al. do not expressly disclose determining an amount of bandwidth available for voice as a function of a number of non-voice admitted calls. In an analogous art, Key et al. disclose determining an amount of bandwidth available for voice as a function of a number of non-voice admitted calls (figure 7, col. 8 lines 29-67).

One skilled in the art would have recognized determining an amount of bandwidth available for voice as a function of a number of non-voice admitted calls, and would have applied Key et al.'s network's operation in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Key et al.'s method and apparatus for controlling a communications network in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to calculate effective bandwidths (col. 8 lines 34-35).

Furthermore, Hayano et al. in view of Key et al. do not expressly disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call. In an analogous art, Bruno et al disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call (figure 3, col. 5 lines 24-32).

One skilled in the art would have recognized updating a count of a number of voice calls currently admitted, and would have applied Bruno et al's data collection unit in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Bruno et al's switched voice and data ATM network with billing system in Hayano et al's call control with

transmission priority in a packet communication network of an ATM type with the motivation being updates the call table 40 for the VPI/CI with the call completion time (col. 5 lines 27-32).

For claim 2, Hayano et al. disclose:

- (a) associating with each call type a call bandwidth (figure 5, col. 5 lines 7-17);
- (b) admitting the incoming call if the call bandwidth of the incoming call is not greater than a spare bandwidth that is associated with the virtual circuit (col. 5 lines 23-38).

For claim 3, Hayano et al. disclose identifying the call type of the incoming call prior to performing step (b) (col. 4 lines 10-11 and col. 5 lines 10-17).

For claim 9, Hayano et al. disclose call control with transmission priority in a packet communications network of an ATM type, comprising the steps of:

determining the call type of an incoming call, each call type having an associated bandwidth (figure 1, references 10-12, col. 4 lines 8-11 and col. 5 lines 10-17);

admitting the incoming call to use the virtual circuit (col. 4 lines 27-34 and col. 5 lines 23-38).

However, Hayano et al. do not expressly disclose determining an amount of bandwidth available for voice as a function of a number of non-voice admitted calls, and admitting the incoming call as a function of the call type of the incoming call. In an analogous art, Key et al. disclose determining an amount of bandwidth available for voice as a function of a number of non-voice admitted calls and admitting the incoming call as a function of the call type of the incoming call (figure 7, col. 8 lines 29-67).

One skilled in the art would have recognized determining an amount of bandwidth available for voice as a function of a number of non-voice admitted calls, and would have applied Key et al.'s network's operation in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Key et al.'s method and apparatus for controlling a communications network in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to calculate effective bandwidths (col. 8 lines 34-35).

Furthermore, Hayano et al. in view of Key et al. do not expressly disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call. In an analogous art, Bruno et al disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call (figure 3, col. 5 lines 24-32).

One skilled in the art would have recognized updating a count of a number of voice calls currently admitted, and would have applied Bruno et al's data collection unit in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Bruno et al's switched voice and data ATM network with billing system in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being updates the call table 40 for the VPI/VCI with the call completion time (col. 5 lines 27-32).

4. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayano et al. (US 5,132,966) in view of Key et al. (US 5,991,272) and Bruno et al. (US 5,894,475) further in view of Miyagi et al. (US 5,894,471).

For claim 4, Hayano et al in view of Key et al. and Bruno et al. do not expressly disclose the step of blocking the incoming call if the incoming call is not admitted. In an analogous art, Miyagi et al. disclose the step of blocking the incoming call if the incoming call is not admitted (col. 13 lines 40-46).

One skilled in the art would have recognized the step of blocking the incoming call if the incoming call is not admitted, and would have applied Miyagi et al's connection admission control in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Miyagi et al's ATM network system and connection admission control method in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to provide call blocking due to the lack of bandwidth (col. 13 lines 40-41).

For claim 10, the claim is directed to the same subject matter in claim 4. Therefore, it is subjected to the same rejection.

5. Claims 5-6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayano et al (US 5,132,966) in view of Key et al. (US 5,991,272) and Bruno et al. (US 5,894,475) further in view of Davis (US 6,157,654).

For claim 5, Hayano et al in view of Key et al. and Bruno et al do not expressly disclose wherein step (b) further includes the step of reducing the spare bandwidth by

an amount equal to the call bandwidth of the admitted incoming call. In an analogous art, Davis discloses the step of reducing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call (col. 6 line 65 to col. 7 line 3). Davis discloses further the step of increasing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call when the admitted incoming call departs (col. 7 lines 6-9 as set forth in claim 6).

One skilled in the art would have recognized the step of reducing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call, and would have applied Davis's WFG Control in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Davis adaptive service weight assignment for ATM scheduling in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to provide WFQ Control to determine whether the demand can be met by the existing queue weights by comparing the request with the queue part allocated to the queue (col. 6 line 65 to col. 7 line 1).

For claim 11, the claim is directed to the same subject matter in claim 5. Therefore, it is subjected to the same rejection.

For claim 12, the claim is directed to the same subject matter in claim 6. Therefore, it is subjected to the same rejection.

6. Claims 15 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayano et al (US 5,132,966) in view of Key et al. (US 5,991,272) and Bruno et al. (US 5,894,475) further in view of Kawase et al (US 5,774,455).

For claim 15, Hayano et al disclose call control with transmission priority in a packet communications network of an ATM type, comprising the steps of:

determining the call type of an incoming call, each call type having an associated bandwidth (figure 1, references 10-12, col. 4 lines 8-11 and col. 5 lines 10-17);

admitting the incoming call to use the virtual circuit if the associated bandwidth of the incoming call is not greater than a spare bandwidth that is associated with the virtual circuit (col. 4 lines 27-34 and col. 5 lines 23-38).

responsive to the admitted call, providing a stream of ATM packets for conveying information associated with the admitted call (col. 4 lines 27-34 and col. 5 lines 23-38);
and

responsive to the stream of packets, providing a respective stream of ATM cells for transmission over the virtual circuit (col. 4 lines 27-34 and col. 5 lines 23-38).

However, Hayano et al. do not expressly disclose admitting the incoming call as a function of the call type of the incoming call. In an analogous art, Key et al. disclose admitting the incoming call as a function of the call type of the incoming call (figure 7, col. 8 lines 29-67).

One skilled in the art would have recognized admitting the incoming call as a function of the call type of the incoming call, would have applied Key et al.'s network's operation in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Key et al.'s method and apparatus for controlling a communications network in Hayano et al's call control with

transmission priority in a packet communication network of an ATM type with the motivation being to calculate effective bandwidths (col. 8 lines 34-35).

Furthermore, Hayano et al. in view of Key et al. do not expressly disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call. In an analogous art, Bruno et al disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call (figure 3, col. 5 lines 24-32).

One skilled in the art would have recognized updating a count of a number of voice calls currently admitted, and would have applied Bruno et al's data collection unit in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Bruno et al's switched voice and data ATM network with billing system in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being updates the call table 40 for the VPI/VCI with the call completion time (col. 5 lines 27-32).

Hayano et al in view of Key et al. and Bruno et al. do not expressly disclose a stream of ATM Adaption Layer 2 (AAL2) packets. In an analogous art, Kawase et al disclose a stream of ATM Adaption Layer 2 (AAL2) packets (col. 1 line 29).

One skilled in the art would have recognized a stream of ATM Adaption Layer 2 (AAL2) packets, and would have applied Kawase et al's variable speed service in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Kawase et al's data

transmission apparatus and method and data communication system conducting variable bit-rate data transmission in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to provide a communication speed with flexibility from low to high (col. 1 lines 27-30).

For claim 28, Hayano et al disclose call control with transmission priority in a packet communications network of an ATM type, comprising the steps of:

a call classifier (figure 6, reference step 39, col. 6 lines 8-12) for determining the call type of an incoming call; each call type having an associated bandwidth (figure 1, references 10-12, col. 4 lines 8-11 and col. 5 lines 10-17) and for admitting the incoming call to use the virtual circuit if the associated bandwidth of the incoming call is not greater than a spare bandwidth that is associated with the virtual circuit (col. 4 lines 27-34 and col. 5 lines 23-38);

a processor responsive to the admitted call (figure 6, reference 37, col. 6 lines 4-7), providing a stream of packets for conveying information associated with the admitted call (col. 4 lines 27-34 and col. 5 lines 23-38); and

a processor responsive to the stream of packets, providing a respective stream of ATM cells for transmission over the virtual circuit (col. 4 lines 27-34 and col. 5 lines 23-38).

However, Hayano et al. do not expressly disclose admitting the incoming call as a function of the call type of the incoming call. In an analogous art, Key et al. disclose admitting the incoming call as a function of the call type of the incoming call (figure 7, col. 8 lines 29-67).

One skilled in the art would have recognized admitting the incoming call as a function of the call type of the incoming call, would have applied Key et al.'s network's operation in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Key et al.'s method and apparatus for controlling a communications network in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to calculate effective bandwidths (col. 8 lines 34-35).

Furthermore, Hayano et al. in view of Key et al. do not expressly disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call. In an analogous art, Bruno et al disclose updating a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call (figure 3, col. 5 lines 24-32).

One skilled in the art would have recognized updating a count of a number of voice calls currently admitted, and would have applied Bruno et al's data collection unit in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Bruno et al's switched voice and data ATM network with billing system in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being updates the call table 40 for the VPI/VCI with the call completion time (col. 5 lines 27-32).

Hayano et al. in view of Key et al. and Bruno et al. do not expressly disclose a stream of ATM Adaption Layer 2 (AAL2) packets. In an analogous art, Kawase et al disclose a stream of ATM Adaption Layer 2 (AAL2) packets (col. 1 line 29).

One skilled in the art would have recognized a stream of ATM Adaption Layer 2 (AAL2) packets, and would have applied Kawase et al's variable speed service in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Kawase et al's data transmission apparatus and method and data communication system conducting variable bit-rate data transmission in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to provide a communication speed with flexibility from low to high (col. 1 lines 27-30).

7. Claims 16 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayano et al. (US 5,132,966) in view of Key et al. (US 5,991,272) and Bruno et al. (US 5,894,475) further in view of Kawase et al. (US 5,774,455) and Miyagi et al. (US 5,894,471).

For claim 16, Hayano et al. in view of Key et al. and Bruno et al. and Kawase et al. do not expressly disclose the step of blocking the incoming call if the incoming call is not admitted. In an analogous art, Miyagi et al disclose the step of blocking the incoming call if the incoming call is not admitted (col. 13 lines 40-46).

One skilled in the art would have recognized the step of blocking the incoming call if the incoming call is not admitted, and would have applied Miyagi et al's

connection admission control in Hayano et al's admission control. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Miyagi et al's ATM network system and connection admission control method in Hayano et al's call control with transmission priority in a packet communication network of an ATM type with the motivation being to provide call blocking due to the lack of bandwidth (col. 13 lines 40-41).

For claim 29, the claim is directed to the same subject matter in claim 16. Therefore, it is subjected to the same rejection:

8. Claims 17-18 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayano et al. (US 5,132,966) in view of Key et al. (US 5,991,272) Bruno et al. (US 5,894,475) further in view of Kawase et al. (US 5,774,455) and Davis (US 6,157,654).

For claim 17, Hayano et al. in view of Key et al. and Bruno et al. and Kawase et al. do not expressly disclose wherein the admitting step of reducing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call. In an analogous art, Davis discloses the step of reducing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call (col. 6 line 65 to col. 7 line 3). Davis discloses further the step of increasing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call when the admitted incoming call departs (col. 7 lines 6-9 as set forth in claim 18).

One skilled in the art would have recognized the step of reducing the spare bandwidth by an amount equal to the call bandwidth of the admitted incoming call, and

would have applied Davis's WFG Control in Hayano et al.'s admission control.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Davis adaptive service weight assignment for ATM scheduling in Hayano et al.'s call control with transmission priority in a packet communication network of an ATM type with the motivation being to provide WFQ Control to determine whether the demand can be met by the existing queue weights by comparing the request with the queue part allocated to the queue (col. 6 line 65 to col. 7 line 1).

For claim 30, the claim is directed to the same subject matter in claim 10. Therefore, it is subjected to the same rejection.

For claim 31, the claim is directed to the same subject matter in claim 10. Therefore, it is subjected to the same rejection.

Response to Arguments

9. Applicant's arguments with respect to claims 1-6, 9-12, 15-18, and 28-31 have been considered but are moot in view of the new ground(s) of rejection.

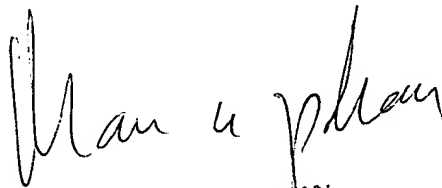
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN
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MAN U. PHAN
PRIMARY EXAMINER